

SCOTTISH BORDERS COUNCIL

**APPLICATION TO BE DETERMINED UNDER POWERS DELEGATED TO
CHIEF PLANNING OFFICER**

PART III REPORT (INCORPORATING REPORT OF HANDLING)

REF : 18/00518/FUL

APPLICANT : Avocet Farms Ltd

AGENT : The Energy Workshop

DEVELOPMENT : Erection of polystructure cattle shed and hydroponics unit

LOCATION: Land South East Of Renton Bush
Reston
Scottish Borders

TYPE : FUL Application

DRAWING NUMBERS:

Plan Ref	Plan Type	Plan Status
069-09 Rev C	Location Plan	Refused
069(c)-007	Proposed Elevations	Refused
069-09	Proposed Site Plan	Refused
069(c)-012	Proposed Plans	Refused
JF MCKENNA	Brochures	Refused
069(c)-010	Other	Refused
069(c)-011	Topographical Plan	Refused
069(c)-011	Topographical Plan	Refused

NUMBER OF REPRESENTATIONS: 3

SUMMARY OF REPRESENTATIONS:

CONSULTATIONS

SBC Ecology Officer: Further information required. The local landscape is characterised as Pastoral Upland Fringe Valley with grassland, improved arable cropland, rough grazing moorland and broadleaved woodland. Drone Moss Site of Special Scientific Interest is situated approximately 2.5km to the north of the site, at slight elevation. It is designated for its wetland habitat. Given its situation, it is not likely to be impacted by the nature and scale of this development, in my opinion. The proposed development is situated within semi-natural ancient native woodland, (albeit, not intact), and the proposed Greenwood Local Biodiversity Site. There is a small burn (unnamed), which flows under the A1 and may have connectivity to the Eye Water.

Scottish Borders Council has records of badger, red squirrel, breeding birds (oystercatcher and lapwing) within 1km of the site. Other breeding birds, such as passerine species, may nest in woodland adjacent to the site from March to August. There are also non-breeding records of wintering barn owl, snipe and pink-footed geese within 1km of the site. The habitat of broadleaved woodland may afford roosting and foraging opportunities for bat species.

The proposed development (which has already begun) includes woodland felling, earthworks, and creation of new drainage (SUDS) for the cattle sheds. The applicant is also, separately, seeking (retrospective) planning permission for additional developments within the same site, including erection of wind turbines (18/00788/FUL - decision pending).

SUDS features are proposed, however no detail is provided. There is potential ecological connectivity to the Eye Water therefore consideration needs to be given to protection of the water environment in the installation of any approved SUDS scheme. At the time of writing, I have not seen a response from SEPA concerning SUDS, drainage and related impacts on the water environment.

I note that the Forestry Commission have objected to the application in terms of the lack of consideration of ecological features and works that have already taken place without licence to fell trees within the ancient woodland site.

Felling of woodland is in conflict with LDP policy EP13 and biodiversity impacts, including potential impacts on European and nationally Protected Species, have not been considered (Impacts on EPS are required to be considered prior to determination). Earthworks also have potential to impact on badger.

Potential impacts on important habitats and on protected species, as well as cumulative effects, which may occur in conjunction with other development applications on the site, must be considered in an Ecological Impact Assessment for this development, prior to determination.

SBC Environmental Health: No objection, subject to conditions. The erection of cattle sheds can give rise to problems of pests and nuisance if food sources and waste are not handled appropriately. A nuisance management plan will enable the applicant to demonstrate that the site will be managed in a such way that will not give rise to nuisance or vermin and hence should not adversely impact the amenity of nearby properties.

The application states that farmyard manure will be stored on fields. The storage of manure can give rise to issues of odour, seepage and insect nuisance to nearby properties. The nuisance management plan should either state locations where manure will be stored or a process that will be used to determine storage location to avoid the above issues - e.g. the proximity to other properties and topography will be considered, etc.

SBC Landscape: Holding objection. The 'site' is part of an existing woodland, albeit that tree cover is sparse. As such, the Control of Woodland Removal policy is likely to apply. <https://scotland.forestry.gov.uk/supporting/strategy-policy-guidance/woodland-expansion/control-of-woodland-removal> Forestry Commission Scotland should be consulted in this case and it is anticipated that an area of compensatory planting would be required to make up for the woodland cover that would be lost if this application is approved. From the information provided, this does not appear to have been allowed for. In landscape and visual terms, the screening provided by surrounding tree cover should adequately mitigate any visual impacts. Until a response has been received from FCS in relation to the above policy, I cannot make a recommendation.

SBC Roads Officer: No objection.

Scottish Forestry (formerly Forestry Commission Scotland): Object to the above application for the following reasons:

1. Permanent woodland removal has occurred on parts of an ancient woodland site without planning permission, contrary to the Scottish Government's Control of Woodland Removal Policy.
2. Part of the development site is the subject of a felling licence issued by Forestry Commission Scotland. The licence (ref FLA01263) allowed thinning of part of the woodland that was included within the boundary of the development site. Complete tree removal and change of use was not consented by the felling licence.
3. The application documents made available online do not include an assessment of the ecological condition or value of the site prior to the commencement of works. As a result, the extent of permanent damage caused by the loss of vegetation and soils is not known. To be able to advise Scottish Borders Council on avoiding further damage to the woodland associated with this development (and on suitable mitigation), we would require an assessment of the remaining ancient woodland features, including the biodiversity value of the remaining undisturbed soils. These valuable

features can prevail even if non-native trees have grown on the site for many years. We also recommend that a detailed GPS or aerial survey of the woodland is carried out to provide an accurate baseline map of the woodland extent and condition so that any further losses can be quantified.

Transport Scotland: No objection.

REPRESENTATIONS

The Woodland Trust: Objects. The Woodland Trust is the UK's leading woodland conservation charity. We have four main aims: no further loss of ancient woodland, restoring and improving woodland biodiversity, increasing new native woodland and increasing people's understanding and enjoyment of woodland. We own over 1,000 sites across the UK covering around 26,000 hectares (ha). In Scotland we own and care for around 60 woodland sites covering in excess of 9,500ha, which include the 5,000ha Glen Finglas estate. The Woodland Trust has 500,000 members and supporters.

We consider that any woodland included in Scottish Natural Heritage's Ancient Woodland Inventory (or AWI), which is present on historical maps or which exhibits a significant number of ancient woodland indicators can be considered as ancient and long-established and is therefore worthy of further study and is likely to pose a constraint on development. We believe that ancient woodland is amongst the most precious and biodiverse habitats in the UK and is a finite resource which must be protected from damage, loss and fragmentation.

The Woodland Trust objects to the proposed development on the grounds of potential damage to Green Wood at grid reference: NT835641, recorded as 1a ASNO (Ancient Woodland of Semi-natural Origin) on Scottish Natural Heritage's Ancient Woodland Inventory.

Two members of the public objected to the application raising the following concerns:

- ecological impacts.
- role of the ground in maintaining soil stability above the A1.
- groundworks may cause flooding/ soil erosion.
- EIA is required.
- no detail in the application as to the number and size of livestock to be kept at the proposed buildings.
- no detail as to how water and most importantly "dirty" water from the hydroponics unit, cattle sheds and manure stores will be captured and dealt with.
- the area is a Nitrate Vulnerable Zone, and therefore appropriate measures will be required in respect of manure management.
- the product brochure for the proposed barns is in relation to a structure for cultivating mushrooms. I question whether a building of the type being proposed is suitable for housing livestock.
- there is no mention in the plans as to the colour of the polytunnels.
- the prominence of the development is exacerbated by the removal of the trees.
- no mention in the application of landscaping or screening.
- health and safety/ animal welfare.
- there is no supporting statement.
- no explanation of how the development relates to the other 6 (so far) applications in the Avocet portfolio.
- the developments are not about farming but about changing Berwickshire from an arable food-producing farming area into a biofuel producing area which would lead to a large reduction in locally produced food/wood, etc.
- there is insufficient livestock in the area to supply even one such AD, therefore supplies would have to be driven in from distant places, which has implications for the roads network.
- the roads department response has failed totally to take into account the inherent dangers of this proposal.
- road safety.
- it must be asked whether the application posits a safe, desirable or appropriate activity on this small site and for Berwickshire.

PLANNING CONSIDERATIONS AND POLICIES:

Local Development Plan 2016:

PMD1: Sustainability
PMD2: Quality Standards
ED7: Business, Tourism and Leisure Development in the Countryside
ED9: Renewable Energy Development
HD3: Protection of Residential Amenity
EP1: International Nature Conservation Sites and Protected Species
EP2: National Nature Conservation Sites and Protected Species
EP3: Local Biodiversity
EP13: Trees, Woodlands and Hedgerows
EP15: Development Affecting the Water Environment
EP16: Air Quality
IS7: Parking Provision and Standards
IS8: Flooding
IS9: Waste Water Treatment and SUDS

Other Considerations:

Biodiversity Supplementary Planning Guidance 2005
Landscape and Development Supplementary Planning Guidance 2008
Local Biodiversity Action Plan Supplementary Planning Guidance 2001
Renewable Energy Supplementary Guidance 2018
Scottish Borders Woodland Strategy Supplementary Planning Guidance 2005
Sustainable Urban Drainage Systems Supplementary Planning Guidance 2020
Trees and Development Supplementary Planning Guidance 2008

Planning Advice Note 39: Farm and forestry buildings
Scottish Planning Policy 2014

Recommendation by - Paul Duncan (Assistant Planning Officer) on 14th January 2021

BACKGROUND

This application sought partially retrospective planning permission for the erection of cattle and hydroponics buildings and associated groundworks at a sloping site near Houndwood, Berwickshire. The proposals were to form part of a wider demonstration farming development in the surrounding area, also comprising wind turbines.

SITE DESCRIPTION

The proposed site is situated on a hillside overlooking the A1 trunk road, a short distance from the Houndwood building group which is located between Grantshouse and Reston. The site is served by a private road which connects Greenwood Farm with Houndwood. The site is located within the far western edge of a larger area of land that is recorded as semi-natural ancient native woodland. The nearest dwellinghouses are at Houndwood and Greenwood Farm.

PROPOSED DEVELOPMENT

A large, detached 40m by 50m building was to house cattle and a separate 40m by 10m hydroponics unit building was to produce feed for the cattle. Significant groundworks had already been carried out to accommodate the development and construction of the buildings has also begun prior to the submission of the application.

The site plan also showed a 6m wide existing access track with car parking. A portable timber office was also proposed.

ASSESSMENT

Principle

LDP policy ED7 (Business, Tourism and Leisure Development in the Countryside) aims to allow appropriate employment generating development in the countryside whilst protecting the environment and ensuring such developments are appropriate for their location.

These proposals formed part of a wider vision for three ambitious demonstration farms which were the subject of multiple applications. The proposed developments were to involve the use of new or uncommon technologies and the applications generated a lengthy dialogue with those acting for the applicants. Whilst there were a significant number of issues and concerns associated with some of these proposals, the potential economic benefits were significant, and the applicants were afforded ample time to demonstrate their proposals could satisfy planning policies.

It was accepted that the proposed development would have been used directly for agricultural uses, which is in principle an acceptable form of rural development. However, Policy ED7 also sets out a number of additional criteria, relating to the character of the area, the erection of new buildings, the expansion of uses and the siting and design of such development. The landscape and visual impact of the proposed development is considered separately below. In addition to such considerations there were over-riding concerns in relation to the proposal to erect new farm buildings at an undeveloped site located at a significant distance from any associated existing farm building, effectively creating a new standalone farm steading complex. Whilst it is unavoidable for certain types of agricultural development, such as free range egg production, to be dispersed, cattle shed developments are normally erected within close proximity to an existing farm steading, protecting the character and appearance of undeveloped rural areas from sporadic development. Robust justification would be required otherwise.

No justification was put forward for the siting of the proposed development. A reasoned justification was put forward by the same applicant for a similar development elsewhere in Berwickshire, but also did not adequately justify such a significant departure from agricultural development norms. It is acknowledged that the applicant proposed that the buildings would be removed after 20 years, but this would still give rise to significant impacts over that period, and would not negate the need to fully satisfy Policy ED7. In conclusion, the principle of the proposed development is not accepted and the development is considered contrary to Policy ED7.

Moreover, it is considered that further information would have been required to fully explain and justify these development proposals. The application is considered to lack sufficient supporting information.

Trees

Policy EP13 of the Local Development Plan seeks to protect trees from development.

The proposed site is located within an area recorded as semi-natural ancient native woodland by NatureScot (formerly SNH). Prior to the submission of the planning application a significant number of mature trees were felled to clear the site. Scottish Forestry (formerly Forestry Commission Scotland) advised that the development site was the subject of a felling licence which allowed thinning within the boundary of the development site. Complete tree removal and change of use was not consented by the felling licence. This generated objections from Scottish Forestry and the Woodland Trust. A holding objection was also lodged by the Council's Landscape Officer. The applicant requested the application be put on hold in order that these matters could be addressed directly with Scottish Forestry, but the objections have not been removed. The concerns raised by the objectors include matters outside the planning process. However, to satisfy Policy EP13, it was necessary to demonstrate that the proposed development would not harm trees, and this has not been established. The proposed development is therefore considered contrary to Policy EP13.

Landscape and Visual Impacts

Local Development Plan (LDP) policy PMD2 (Quality Standards) requires all development to be of high quality in accordance with sustainability principles, designed to fit in with Borders townscape and landscape surroundings. Development should be of a scale, massing, height and density appropriate to its surroundings. The policy contains a number of standards that would apply to all development.

Farm buildings within the Scottish Borders countryside are generally fairly standardised in terms of form, massing and materials. Planning Advice Note 39: Farm and Forestry Buildings provides guidance on achieving the appropriate design and appearance of modern farm buildings.

The proposed development was to vary considerably from the normal appearance of a modern farm building. This was the subject of extensive discussions during the course of the application. Originally a white PVC type material was to cover the proposed farm building. It is acknowledged that the Landscape Officer expressed little concern in terms of wider landscape impact of this development. However there was considerable concern at the potential closer range visual impact of this, and how this would affect the more immediate landscape setting of the site. A further concern was the potential for an effective precedent to be set in allowing such a material to be used in the open countryside. The applicant explored alternative materials and a similar material coloured green was put forward. It was agreed that a smaller demonstration unit could be erected in a more discreet location to demonstrate the appearance of the structure in this material. A considerable period has since passed and this development is not thought to have been completed. Significant concerns at the appearance of these structures remain. It is considered that the proposed development would have an adverse visual impact, to the detriment of the landscape surroundings of the area, in conflict with LDP policy PMD2 (Quality Standards).

Ecology

Ecological assets are protected by Policies EP1-EP3 of the Local Development Plan covering a range of sites and species from international to sites and species of local interest.

The Ecology Officer identified a range of potential impacts on important habitats and on protected species, however the proposed development was not considered likely to impact the Drone Moss Site of Special Scientific Interest (SSSI). A range of protected species including badger, bats and breeding birds have been recorded in the wider area and the Ecology Officer requested an Ecological Impact Assessment for this development, prior to determination. No ecological survey information or mitigation was provided. In the absence of necessary ecological information the application must be refused as contrary to Local Development Plan policies EP1 (International Nature Conservation Sites and Protected Species), EP2 (National Nature Conservation Sites and Protected Species), EP3 (Local Biodiversity) and EP15 (Development Affecting the Water Environment) in that the development has not demonstrated that unacceptable adverse ecological impacts would not arise.

The proposals were not considered to amount to EIA development.

Residential Amenity

Policy HD3 (Residential Amenity) of the Local Development Plan states that development that is judged to have an adverse impact on the amenity of residential areas will not be permitted.

The nearest residential properties are several hundred metres from the site. The primary issues associated with this type of development are odour nuisance, as well as pests/ vermin, seepage and insect nuisance. The proposals were assessed by the Environmental Health team who considered these issues could be adequately addressed by a Nuisance Management Plan, which could be secured and controlled by planning condition. Were the application to be supported, it would be appropriate to attach such a condition.

Vehicular Access and Road Safety

Policy PMD2 requires developments to have no adverse impact on road safety and adequate vehicular access.

The Roads Planning Service are the relevant consultee for local road network and road safety matters. The RPS had no objections and expressed no concerns with the proposed development.

Transport Scotland are the relevant consultee for impacts on the trunk road network including the A1 trunk road which is located close to the proposed site. Transport Scotland had no objections and expressed no concerns with the proposed development.

Parking

Policy IS7 of the Local Development Plan requires that car parking should be provided in accordance with the Council's adopted standards.

A car park was to be formed close to the minor public road. The proposals were assessed by the Roads Planning Service who expressed no concerns in terms of parking provision.

Water Supply

The development was to connect to the public mains water supply. Were the application supported, it would have been appropriate to control the development subject to a planning condition which evidenced the agreement of Scottish Water to this before works recommenced.

Other Matters

Concern was expressed around potential animal welfare implications that objectors suggested may arise from the proposed development. Animal welfare/ ethics are not planning matters and would not form a reason for refusing the application.

REASON FOR DECISION :

The proposed development is contrary to Local Development Plan Policy EP13 (Trees, Woodlands and Hedgerows) in that it has not been demonstrated that the development would protect trees from development.

The development is contrary to Local Development Plan policies EP1 (International Nature Conservation Sites and Protected Species), EP2 (National Nature Conservation Sites and Protected Species), EP3 (Local Biodiversity) and EP15 (Development Affecting the Water Environment) in that the development has not adequately demonstrated that unacceptable adverse ecological impacts would not arise.

The development is contrary to LDP policy ED7 (Business, Tourism and Leisure Development in the Countryside) in that the development would adversely affect the rural character of the area by introducing sporadic new build development to an undeveloped area without adequate justification.

The development would be contrary to Local Development Plan (LDP) policy PMD2 (Quality Standards) in that development would not fit in with the Borders landscape surroundings. The proposed materials would contribute to an unacceptable appearance giving rise to unacceptable visual impacts, to the detriment of the landscape surroundings of the area.

Recommendation: Refused

- 1 The proposed development is contrary to Local Development Plan Policy EP13 in that it has not been demonstrated that the development would protect trees from development.
- 2 The development is contrary to Local Development Plan policies EP1 (International Nature Conservation Sites and Protected Species), EP2 (National Nature Conservation Sites and Protected Species), EP3 (Local Biodiversity) and EP15 (Development Affecting the Water Environment) in that the development has not adequately demonstrated that unacceptable adverse ecological impacts would not arise.
- 3 The development is contrary to LDP policy ED7 (Business, Tourism and Leisure Development in the Countryside) in that the development would adversely affect the rural character of the area by introducing sporadic new build development to an undeveloped area without adequate justification.
- 4 The development would be contrary to Local Development Plan policy PMD2 (Quality Standards) in that development would not fit in with Borders landscape surroundings. The proposed materials would contribute to an unacceptable appearance giving rise to unacceptable visual impacts, to the detriment of the landscape surroundings of the area.

“Photographs taken in connection with the determination of the application and any other associated documentation form part of the Report of Handling”.